

REMARKS

Now in the application are Claims 1-26 of which Claims 1, 6, 11, 13, 18, 21, 22, 23, and 26 are independent. The following comments address all stated grounds of rejection and place the presently pending claims, as identified above, in condition for allowance.

Claim Rejections under 35 U.S.C. § 102

Claims 1-20 and 22-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,768,501 of Lewis (hereinafter "Lewis"). Applicant respectfully traverses this rejection based on a right of priority under 35 U.S.C. § 119.

Applicant respectfully asserts that the Lewis patent fails to qualify as prior art under 35 U.S.C. § 102(b). The effective filing date of the instant application, based on the entitled to priority under 35 U.S.C. § 119(e) from the Provisional Application Serial No. 60/135,492 filed May 24, 1999 entitled "Method and Apparatus for Service Level Management" and naming the same inventor as herein, is the filing date of the provisional application, specifically May 24, 1999. However, the issue date of the cited Lewis patent is June 16, 1998, which is less than one year prior to the effective filing date, May 24, 1999 of the instant application. Accordingly, Applicant asserts that the cited Lewis reference fails to qualify as prior art under 35 U.S.C. § 102(b) and considers the rejection of Claims 1-20 and 22-25 as being anticipated by Lewis moot. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of Claims 1-20 and 22-25 under 35 U.S.C. § 102(b).

Claim Rejections under 35 U.S.C. § 103

Claims 21 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lewis. Applicant respectfully traverses this rejection in view of the following remarks.

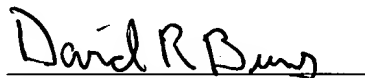
Applicant asserts that the rejection of Claims 21 and 26 as being unpatentable over Lewis is moot. The Lewis patent fails to qualify as prior art under 35 U.S.C. § 102 and therefore fails to qualify as prior art under 35 U.S.C. § 103 because of units of inventorship between the instant application and the cited Lewis patent along the effective filing date of the instant application being less than one year from the issue date of the cited Lewis patent. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of Claims 21 and 26 under 35 U.S.C. § 103.

CONCLUSION

In view of the remarks set forth above, Applicants contend that Claims 1-26 are presently pending in this application, are patentable, and in condition for allowance. If the Examiner deems there are any remaining issues, we invite the Examiner to call the undersigned at (617) 227-7400.

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